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State Water Resources Control Board

Division of Water Rights

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Arnold Schwarzenegger
Governor

NOTICE OF APPLICATION 5647X03 TO APPROPRIATE WATER BY PERMIT AND PETITION TO CHANGE THE POINT OF DIVERSION OF PERMIT 17579 (APPLICATION 5647B)

APPLICATION: 5647X03
DATE FILED: October 7, 2004

COUNTY: Amador
**STREAM SYSTEM: North Fork
Mokelumne River**

Notice is hereby given that Amador Water Agency (AWA) has filed Application 5647X03 for a water right permit in conjunction with filing a petition for partial assignment of State Filed Application 5647 and partial reversion of water rights assigned to Jackson Valley Irrigation District (JVID) under State Filed Application 5648. On February 14, 2005, AWA also filed a petition to add two points of diversion to its water right Permit 17579 (Application 5647B). The State Water Resources Control Board (State Water Board) will determine whether the petition for partial assignment should be granted and a water right permit should be issued for Application 5647X03. The State Water Board will also determine whether an order should be issued to add two points of diversion to water right Permit 17579. If a permit and/or change order are issued, the State Board will determine whether conditions are needed in the permit and/or change order to protect the environment, the public interest, and downstream water users. This notice provides a description of the proposed project and also describes the procedure and time frame for submittal of protests against the application and/or petition. This notice may be viewed at the Division of Water Rights' (Division) website at www.waterrights.ca.gov. Any correspondence directed to the applicant/petitioner should be mailed to:

Amador Water Agency
c/o the following:

Stephen Kronick
Barkiewicz, Kronick & Shanahan
1011 - 22nd Street, Suite 100
Sacramento, CA 95816-4907

Nicholas Bonsignore, P.E.
Wagner & Bonsignore,
Consulting Civil Engineers
444 North Third Street, Suite 325
Sacramento, CA 95814-0228

Background of State Filed Applications 5647 and 5648

Water Right Applications 5647 and 5648 were filed by the State of California on July 30, 1927, under the provisions of Chapter 286, Statutes of 1927, now Water Code section 10500 et seq., and later assigned to the State Water Board as required by law. Both applications reserve water for future appropriation from tributaries of the Mokelumne River system for domestic and

irrigation uses. State filed water right applications such as Applications 5647 and 5648 were originally filed to reserve quantities of water that the State believed could be required in the development and completion of the whole or any part of a general or coordinated plan looking toward the development, utilization, or conservation of the water resources of the State. The State Water Board can then release from priority or assign any portion of a State filed application when the release or assignment is for the purpose of development not in conflict with such general or coordinated plan consistent with water quality objectives established pursuant to law.

A portion of Application 5648 [a total of 5,000 acre-feet annually (afa)] was assigned to JVID on August 28, 1959, under Permit 12167 (Application 5648B). The terms of the partial assignment of Application 5648 to JVID provide for a reversion of a portion of those rights to the State when water is required for use in Amador County for irrigation, incidental domestic or municipal purposes at points upstream from the assignee's point of diversion. The reversion of rights to the State is limited to no more than 2,200 afa.

A portion of Application 5647 was assigned to AWA on March 22, 1979, under Permit 17579 (Application 5647B). Upon filing Application 5647B, AWA also petitioned for a partial reversion of rights of JVID's Permit 12167 to the State. Consequently, when granting AWA Permit 17579, 1,150 afa of Permit 12167 was reverted to the State for appropriation by AWA pursuant to Application 5647B.

Existing Project Under AWA's Permit 17579

Permit 17579 allows the direct diversion of water from two sources: 1) 3.0 cubic feet per second (cfs) from the North Fork Mokelumne River, not to exceed 1,150 afa; and 2) 0.67 cfs from Antelope Creek tributary to Mill Creek thence North Fork Mokelumne River, not to exceed 279 afa. The permitted season of direct diversion is January 1 through December 31. The permit also allows collection to storage from October 1 to July 15 of 1,600 af of water from the Bear River tributary to North Fork Mokelumne River. The total amount of water that can be taken from all sources whether by direct diversion or redirection from storage cannot exceed 1,150 acre-feet per water year from October 1 through September 30.

Water diverted under Permit 17579 may be used for municipal purposes within the boundaries of the service area of AWA, which includes all of the territory within Amador County. AWA owns and operates the Central Amador Water Project, which provides water for municipal purposes to ten communities within the central portion of Amador County.

Under Permit 17579, water is diverted from Bear River and stored in Pacific Gas and Electric Company's (PG&E) Lower Bear River Reservoir. This water is released as needed and re-diverted downstream by AWA from PG&E's Tiger Creek Afterbay, which is located on the North Fork Mokelumne River. The water released from storage in Lower Bear River Reservoir is either 1) diverted into PG&E's Mokelumne River Hydroelectric Project which eventually returns the water into North Fork Mokelumne River upstream of Tiger Creek Afterbay or 2) released into the Bear River which is tributary to North Fork Mokelumne River upstream of Tiger Creek Afterbay. At the Tiger Creek Afterbay, released stored water or water directly

diverted from the North Fork Mokelumne River is pumped to AWA's Buckhorn Water Treatment Plant distribution system and furnished to local public entities and water companies. The point of diversion on Antelope Creek serves as an alternate supply source for the AWA service area and this water is also treated at the Buckhorn Water Treatment Plant.

AWA has almost maximized use of Permit 17579. For example, in 2004, AWA utilized 1,084 af of water under its permit to provide service to 3,360 service connections and a population of approximately 9,072 people. AWA projects that its service area's population will more than double by 2040. Furthermore, AWA's Buckhorn Water Treatment Plant has reached capacity and AWA has begun construction of a new, larger water treatment facility close to the Buckhorn Plant. The new treatment plant will be able to handle the increased treatment flows necessary for community growth.

Description of Project Proposed Under Application 5647X03 and Petition to Change Permit 17579

Based on the projected community growth, on October 7, 2004, AWA petitioned the State Water Board for additional partial assignment of Water Right Application 5647 and further partial reversion to the State of JVID's right to use water under Permit 12167. In conjunction with the petition of partial assignment, AWA filed Application 5647X03. In addition, on February 14, 2005, as part of its overall water supply project, AWA also filed a petition to add two new points of direct diversion to Permit 17579.

Diversion Quantities Proposed in Application 5647X03:

In Application 5647X03, AWA proposes a direct diversion from two points as follows: 1) 5 cfs from Bear River at Lower Bear River Reservoir Dam; and 2) 5 cfs from North Fork Mokelumne River at Springs Reservoir Dam; the maximum combined rate of diversion at both points of diversion (PODs) will not exceed 5 cfs. AWA also proposes a point of direct diversion of 7 cfs from North Fork Mokelumne River at the Tiger Creek Afterbay Dam. The combined rate of direct diversion at all three POD's will not exceed 7 cfs. The total amount taken by direct diversion will not exceed 1,050 afa.

AWA proposes diversion to storage of 1,400 afa from Bear River at Lower Bear Reservoir Dam to be collected from October 1 of each year to July 15 of the succeeding year.

The total amount of water that will be diverted from all sources, whether by direct diversion or diversion to storage will not exceed 2,450 af per water year from October 1 to September 30. The total amount of water that will be taken from all sources for beneficial uses, whether by direct diversion or redirection from storage shall not exceed 1,050 af per water year from October 1 to September 30.

Changes Proposed to Permit 17579

AWA petitioned to add two points of direct diversion to Permit 17579. AWA proposes to have a point of direct diversion at their current point of diversion to storage on the Bear River at Lower Bear River Reservoir. The petition also requests an additional point of direct diversion from the Mokelumne River at Salt Springs Reservoir Dam. These additional points of diversion are also included in Application 5647X03.

Combined Diversion Quantity Limitations Under Both Application 5647X03 and Permit 17579

AWA has proposed the following limitations on the combined diversions from their Permit 17579 and any permit issued pursuant to Application 5647X03:

1. The rate of direct diversion at point of diversion on the North Fork Mokelumne River at Tiger Creek Afterbay shall not exceed 10 cfs.
2. The total amount of water to be directly diverted shall not exceed 2,200 afa.
3. The total amount of water to be collected to storage from Bear River shall not exceed 3,000 af from October 1 to July 15.
4. The total amount of water to be diverted from all sources, whether by direct diversion or diversions to storage, shall not exceed 5,200 af per water year from October 1 to September 30. The total amount of water to be taken from all sources by direct diversion or rediversion from storage shall not exceed 2,200 af per water year from October 1 to September 30.

Summary of Application 5647X03

County: Amador
 Source: POD 1) Bear River tributary to North Fork Mokelumne River thence Mokelumne River
 PODs 2) and 3) North Fork Mokelumne River tributary to Mokelumne River
 Points of
 Diversion: POD 1) Located within the SE ¼ of SW ¼ of section 18, T8N, R16E, MDB&M.
 POD 2) Located within the NW ¼ of SE ¼ of section 33, T8N, R16E, MDB&M.
 POD 3) Located within the SE ¼ of SE ¼ of section 23, T7N, R13E, MDB&M.
 Amount: Direct Diversion:
 POD 1) and 2) 5 cfs at each POD, with the combined rate at both points not to exceed 5 cfs.
 POD 3) 7 cfs, with the combined rate at all 3 PODs not to exceed 7 cfs.
The total quantity to be directly diverted will not exceed 1,050 afa.
Storage:
 POD 1) 1,400 af per year.
 POD 3 will be used as a point of rediversion of water stored at POD 1 and released from storage for use downstream.
The total amount of water to be diverted from all sources, whether by direct diversion or diversion to storage, shall not exceed 2,450 af per water year from

October 1 to September 30. The total amount of water to be taken from all sources for beneficial uses, whether by direct diversion or redirection from storage shall not exceed 1,050 af per water year from October 1 to September 30.

Season: January 1 to December 31 of each year for direct diversion
October 1 of each year through July 15 of the succeeding year for storage

Purpose: Municipal Supply

Place of Use: The place of use will be within the boundaries of the Central Amador Water Project, within the following townships and sections:

1. In T7N, R13E, MDB&M:
 - a. All of sections 8, 9, 10, 11, 14, 15, 16, 17, 19, 20, 21, 22, 23, 27, 28, 29, 30 and 31.
 - b. That portion of sections 26, 32, 33 and 34 which are north of the North Fork Mokelumne River
2. In T7N, R12E, MDB&M, all of sections 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36.
3. In T6N, R12E, MDB&M:
 - a. All of sections 2, 3, 4, 5, 6, 8, 9, 10, 11 and 15.
 - b. That portion of sections 1, 12, 13 and 14, which are west of the North Fork of the Mokelumne River.

Summary of Petition to Change Permit 17579

AWA filed a petition to change its water right Permit 17579 (Application 5647B). The petition requests the addition of two points of direct diversion to the permit.

Permit 17579

Permit 17579 currently includes the following three PODs:

POD 1) Diversion to storage of 1,600 afa from the Lower Bear River (at Lower Bear River Reservoir Dam) tributary to the North Fork Mokelumne River within the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of section 18, T8N, R16E, MDB&M.

POD 2) Diversion of 3 cfs from the North Fork Mokelumne River (at Tiger Creek Afterbay Dam) within the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of section 23, T7N, R13E, MDB&M. POD 2 is also a point of redirection of water that was originally collected at POD 1 and released from storage for downstream diversion. The maximum quantity of water that can be directly diverted from POD 2 is 1,150 af.

POD 3) Direct diversion of 0.67 cfs from Antelope Creek tributary to Mill Creek thence North Fork Mokelumne River within the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of section 14, T7N, R13E, MDB&M. The maximum quantity of water that can be directly diverted from POD 3 is 279 af.

The overall limit for direct diversion and storage from all three POD's for Permit 17579 is 1,150 cfs.

Season: January 1 to December 31 of each year for direct diversion
October 1 of each year through July 15 of the succeeding year for storage
Purpose: Municipal
Place of Use: The place of use is within the boundaries of the Central Amador Water Project as indicated above for Application 5647X03.

Changes Proposed for Permit 17579

AWA petitioned to add two points of direct diversion to Permit 17579. One point of direct diversion is proposed for POD 1 described above which currently only allows collection to storage. The petition also requests an additional POD for direct diversion as follows:

POD 4) Direct diversion from the Mokelumne River (at Salt Springs Reservoir Dam) within the NW ¼ of the SE ¼ of section 34, T8N, R16E, MDB&M.

Environmental Information

The lead agency will prepare the appropriate environmental documents for the project according to the California Environmental Quality Act (CEQA) and its guidelines, and will determine whether or not the project will cause a significant effect on the environment. If you are not filing a protest, but wish to submit information that indicates the project may cause a significant effect on the environment, please send this information to Steven Herrera; State Water Resources Control Board, Division of Water Rights; P.O. Box 2000; Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

PROTEST SUBMITTAL INFORMATION

Protest Requirements

Any person may file a protest to the partial assignment of Application 5647, or the reversion of a portion of the right under Permit 12167, if he believes the assignment or the reversion would be invalid because a development in conflict with the general or coordinated plan is proposed or because it would deprive a county of origin of water required for its future development. Such protests may be submitted in any reasonable form and must clearly state the basis of the protestant's objections.

A person may file a protest based on any of the following factors:

- Interference with prior water rights.
- Adverse environmental impact.
- Not in the public interest.
- Contrary to law.

- Not within the jurisdiction of the State Water Board.

All protests must clearly describe the objections to approval of the application and/or change petition and the factual basis for those objections. There must be a clear link between the proposed project and the objection to its approval. If the objection is based on interference with prior water rights, the protest must describe specifically what injury would result if the application is approved. In addition, the party claiming interference with prior rights must provide specific information describing the basis of the prior right, the date the use began, the quantity of water used, the purpose of use and the place of use. Please note that any water right permit issued by the State Water Board is subject to vested water rights and will include conditions to protect such rights.

If the protest is based on an allegation that the proposed appropriation would not be within the State Water Board's jurisdiction, would not best conserve the public interest or public trust uses, would have an adverse environmental impact, or would be contrary to law, the protest must be accompanied by a statement of facts supporting the allegation.

For example, public interest protests should clearly indicate how the appropriation will affect the public; environmental protests should identify specific impacts and provide supporting recitals on the effect of the proposed project on plants, animals, fish, erosion, pollution, aesthetics, etc.; public trust protests must identify the navigable waters and public trust values that would be affected by the proposed project and how the project will impact public trust values.

All protests should include a description of any measures that could be taken to resolve the protest. The protest also must indicate the manner in which the protestant served upon the applicant/petitioner a duplicate copy of the protest.

If sufficient information is not submitted, the State Water Board may reject the protest or request that the protestant submit additional information. Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A request for information or a request that studies be conducted does not constitute a protest.

Procedure for Submitting Protests

Protests should be submitted on standard protest forms available from the Division's website at www.waterrights.ca.gov/forms/ or upon request, in writing or by telephone, from the Division. A pamphlet that provides additional information relating to water rights and the procedure for filing protests is also available on the website or by mail. Any requests or the submittal of the completed protest form should be directed to the individual listed as the contact person at the end of this notice. **A copy of the completed protest form must also be mailed to the applicant.**

Protest Submittal Deadline

Protests submitted in response to this notice must be received by the Division by 3:00 p.m. on the

60th day after the date of this notice (the close of the protest period). Protests may be submitted by any of the following methods:

1. Mailed to Division of Water Rights; P. O. Box 2000; Sacramento, CA 95812-2000
2. Faxed to the Division at (916) 341-5400
3. E-mailed to the engineer listed below under the heading “Contact Person”
4. Hand-delivered to the Division office located at 1001 “I” Street, 14th Floor, Sacramento, CA

If you choose to fax or e-mail the protest due to the constraints of the noticing period, the fax or e-mail must be followed by timely delivery of an original signed copy, either personally or by mail, to the Division in order for the protest to be accepted. The State Water Board will respond to all protests within 60 days of the final day to file a protest. **Protests not submitted by the close of the protest period will be subject to rejection.**

For good cause, the State Water Board may grant an extension of time to file a protest. It is the protestant's responsibility to contact the engineer listed below as “Contact Person” to request the extension prior to the end of the protest period.

Resolution of Protests

The applicant will have 30 days to respond to a protest once it is accepted by the Division. The protestant and the applicant are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

This is a “major” project (the proposed diversion is greater than 3 cubic feet per second by direct diversion or greater than 200 acre-feet per year by storage) as defined by section 1348 of the Water Code. Therefore, any protest issues not resolved by the applicant or by provisions of section 1335 of the Water Code will be decided by the State Water Board following an evidentiary hearing.

CONTACT PERSON

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Kate Gaffney by phone at (916) 341-5360 or by electronic mail at kgaffney@waterboards.ca.gov. Information and protest forms are also available at the Division’s website: www.waterrights.ca.gov/forms/.

Date of Notice: **March 24, 2006**